



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 5723-99
8 June 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that in correspondence dated 24 February 1999, you were advised by the staff of the Physical Evaluation Board (PEB) that the Record Review Panel of the PEB had made preliminary findings that your disabilities were ratable at a combined 20%, and recommended that you be discharged with entitlement to disability severance pay. In addition, you were advised of your right to apply for retirement under the Temporary Early Retirement Authority (TERA). On 6 March 1999, you accepted the findings of the PEB, and indicated that you did not want to apply for TERA consideration. The findings were approved, and you were discharged from the Navy with entitlement to disability severance pay effective 12 April 1999. In a letter dated 22 June 1999, an official of the Department of Veterans Affairs (VA) advised you that there would be a substantial reduction in your VA disability compensation because of your receipt of disability severance pay.

The Board did not accept your contention to the effect that you signed the aforementioned notification from the PEB by mistake, because you thought the notification was actually correspondence from the VA, as it did not find that contention credible. The 24 February

1999 notification document, although not printed on letterhead, indicates on its face that it is from the PEB, and its contents pertain to matters within the purview of the Navy rather than the VA. An enclosure to the notification document, which you certified you had read, is entitled "Findings of the Physical Evaluation Board Proceedings", and signed by a Navy lieutenant commander. The contents of the notification document and its enclosure should have been easily understood by you given your long service as a Navy hospital corpsman.

In view of the foregoing, the Board was unable to conclude that error or injustice occurred in your case, and, accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request. It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director